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www.drny.org

mail@drny.org


518-432-7861

August 11, 2020

Honorable Lewis J. Liman
 Daniel Patrick Moynihan
 United States Courthouse
 500 Pearl St.
 New York, NY 10007

The Court is prepared to take testimony, via Skype for Business, from William D. Cross, Thomas Connolly, and any other witnesses that Plaintiffs or Defendants wish to call. No later than 3:00 p.m. today, Defendants shall file a response to this letter indicating their position with respect to Plaintiffs' request and identifying any witnesses they wish to call, along with their availability. The parties are ordered to meet and confer regarding witness testimony in advance of Defendants' filing.

8/11/2020


 LEWIS J. LIMAN
 United States District Judge

Re: Request to Subpoena, *Hernandez et al. v. New York State Board of Elections et al.*, Docket No. 20-cv-4003

Dear Judge Liman:

Plaintiffs submit this letter motion to request leave to subpoena representatives from Democracy Live and VotingWorks to appear and give testimony at the hearing on Plaintiffs' Motion for a Preliminary Injunction (Docket No. 56) scheduled for August 13, 2020 at 9:30 a.m.

In opposition to Plaintiffs' Motion, Defendants submitted declarations explaining their view of the process and the difficulty of implementing a remote accessible vote-by-mail tool (RAVBM). Defendants did not share with Plaintiffs the information they included in their declarations and relied upon in their opposition motion prior to filing their opposition papers. Defendants include statements specifically relating to Democracy Live, the vendor with which the New York City Board of Elections contracted for the June 23, 2020 primary election. Defendants do not indicate that they contacted or considered contracting with VotingWorks, another vendor capable of implementing an RAVBM system.

Plaintiffs anticipate that the testimony of Democracy Live and VotingWorks, as the entities with the most direct knowledge of how their systems work and how they are implemented in statewide elections, will be useful to the Court in reaching its determination.

Thank you for considering Plaintiffs' request.

Sincerely,

/s/ Amanda B. Pearlstein

Amanda B. Pearlstein
 Co-counsel for Plaintiffs

ALBANY
 725 Broadway, Suite 450
 Albany, NY 12207-5001

BROOKLYN
 25 Chapel St, Suite 1005
 Brooklyn, NY 11201

ROCHESTER
 44 Exchange Blvd, Suite 110
 Rochester, NY 14614

 TTY: 518-512-3448
 Fax: 518-427-6561
 Toll Free: 1-800-993-8982